IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

INCOME TAX APPEAL NO. 287 OF 2002

The Commissioner of Income Tax,
Mumbai City I, Mumbai-20 Appellant
vs.
Gannon Dunkerley & Co. Ltd. Respondent

Mr.K.R.Chaudhary with Mr.Vijay Kantharia i/b. Mr.H.D. Rathod for the appellant.

Mr. F. Andhyarujina, senior counsel with Ms.Pallavi Divekar i/b. Mr.Mahesh Jani & Co. for the respondent.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 7th September 2004

P.C.

Heard.

2. In the memo of appeal, the following substantial

questions of law have been proposed:

"(1) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee was entitled for deduction of Rs.40 lakhs paid as compensation to its sister concern Nimar Textiles Ltd., for running its textile unit?

(2) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee was entitled to deduction of expenditure incurred on gifts/presentation articles and Rule 6B had no application?

(3) Whether on the facts and in the circumstances of the case, the Tribunal

> was right in law in holding that the assessee was entitled for deduction under section 80 HH to the extent of 15% to be derived from production and manufacture of articles or things in backward areas?"

3. In so far as proposed question (2) is concerned, the learned counsel for the revenue concedes that in view of the decision in the case of Commissioner of Income-tax v. Allana Sons Pvt.Ltd., 216 ITR 690 the view of the Tribunal cannot be faulted.

4. As regards proposed questions (1) and (3), we find that the Tribunal has held that the said issues stand concluded by the Tribunal's order of the assessee for earlier assessment years. When the matter came up before us on 24th August 2004, we passed the following order:

> "P.C. The learned counsel for the revenue prays for time to seek instructions about the status of the reference applications filed by the revenue before the Tribunal under section 256(1) of the Income Tax Act, 1961 relating to the orders passed by the Tribunal for the assessment years 1984-85 and 1985-86.
>
> 2. S.O. two weeks."

5. The learned counsel for the revenue is not able to tell us anything about the status of the reference applications said to have been filed by the revenue before the Tribunal under section 256(1).

6. As regards proposed questions (1) and (3), since the Tribunal has gone by its earlier orders, we are satisfied that the view of the Tribunal cannot be faulted.

7. No substantial question of law arises in the appeal.

8. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)